

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

JENNIFER PRICE, <i>et al.</i>)	
)	
Plaintiffs,)	
vs.)	Case No. CIV-14-319-D
)	
MICHAEL DEEBA, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

On September 17, 2014, the Court ordered the dismissal of Plaintiffs’ action against all parties except Defendant Jackie Hill pursuant to Fed. R. Civ. P. 12(b)(1), and directed the filing of simultaneous briefs on the issue of subject matter jurisdiction of Plaintiffs’ action against Defendant Hill.

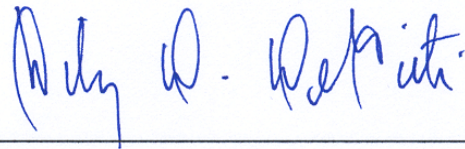
On September 30, 2014, within the time period for filing briefs, Plaintiffs filed a response to the Order of September 17, 2014, in which they acknowledge jurisdictional issues in pursuing their claims against Defendant Hill and state they “do not oppose a dismissal [without prejudice] of the action as to Hill.” *See* Pls.’ Resp. [Doc. No. 98], ¶ 4. Plaintiffs suggest a voluntary dismissal is appropriate under Fed. R. Civ. P. 41.

Upon consideration of Plaintiffs’ response, the Court finds that a dismissal pursuant to Rule 41(a)(2) should be granted. The Court further finds that because there has been no determination that jurisdiction exists in this case, the dismissal must be without prejudice to refiling. *See Brereton v. Bountiful City Corp.*, 434 F.3d 1213, 1218 (10th Cir. 2006) (a court

that lacks jurisdiction “is incapable of reaching a disposition on the merits of the underlying claims” and dismissal should be without prejudice) (emphasis omitted).

IT IS THEREFORE ORDERED that Plaintiffs’ claims against Defendant Jackie Hill are DISMISSED without prejudice. Because this Order disposes of all remaining claims, a judgment of dismissal shall be entered.

IT IS SO ORDERED this 1st day of October, 2014.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE